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L E T T E R

EPA Region 10 CAA 112(r) Update

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Latest News on the Accidental Release Prevention Requirements of the Clean Air Act

INSIDE

EPA Region 10 CAA 112(r) Update
EPA Region 10, Seattle

The Update covers the latest issues related to the Accidental Release Prevention Requirements of the Clean Air Act.

To be added to the mailing list, send a message to mcarthur.lisa@epa.gov or call Lisa McArthur at (206) 553-0383

Rolling out an RMP?
Having community meetings?
Holding a press conference?

Send your announcement to mcarthur.lisa@epa.gov or fax to (206) 553-0175.

Temporary Propane Stay Issued By Court

On April 27, the U.S. Court of Appeals granted a stay of the RMP rule as it applies to facilities having more than 10,000 pounds of propane in a process, pending further action by the court. While the Court's stay is in effect, facilities will not have to file RMPs for their propane processes.

This is not a final ruling on the case; the litigation between EPA and industry continues. The court is scheduling the case for oral argument early in its fall 1999 term.

Two important points need to be made: 1) If a process at a facility includes propane as well as other listed chemicals over the threshold, the facility still must report that process and consider the impact of the propane on hazard analysis and accident prevention. "In a process" means one or more tanks (vessels or piping) that are interconnected or located close enough together that a release from one could result in a release from neighboring tanks ("collocation"). 2) Propane is still an issue for General Duty Clause compliance.

EPA Proposes Stay for Flammable Hydrocarbons # 67,000 Pounds

On May 21, 1999, Administrator Browner signed an administrative stay of the effective date of the RMP rule as it applies to flammable hydrocarbon fuels, including propane, butane, ethane, propylene, and methane (natural gas), stored in quantities no greater than 67,000 pounds (the maximum amount in an 18,000 gallon tank) in a process. The Administrator also signed a proposal to establish this exemption. Depending upon comments received, a final rule is expected in the fall.

Based on available information, EPA believes that fuels exempted under this provision would be used in circumstances that do not pose a significant off-site risk. EPA continues to believe that fuels in excess of this threshold present a risk to American communities.

Tracking These Developments

While having these two stays in effect at the same time may be confusing, keep in mind that the April 27, 1999 U.S. Court of Appeals stay applies only to LP gas/ propane users - at any threshold. EPA's May 21, 1999 stay applies to industries that use RMP-listed flammable hydrocarbons. These industries now covered by EPA's stay include distributors and users of natural gas/liquified natural gas, utilities, and exotic fuel users.

Facilities do not currently have to file RMPs for their propane processes (see above) due to the April 27, 1999 U.S. Court of Appeals stay; however, if that stay is lifted, they will then be subject to EPA's May 21 stay (which applies only to quantities no greater than 67,000 pounds). LP gas/ propane users, along with other affected industries, should keep an eye out

for EPA's final rule.

How can facilities keep an eye on these developments? Check EPA's "What's New" page at www.epa.gov/swercepp/whatnew.html, call the RMP hotline at (800) 424-9346, or check the federal register directly at www.access.gpo.gov/su_docs/aces/aces140.html.

Recent Congressional Initiatives

In addition to this judicial action, there have been two recent Congressional initiatives. On April 26, Senator Inhofe introduced a bill to exempt flammable fuels from RMP. On March 25, Congressman Blunt and eight other Representatives introduced a bill (referred to Commerce Committee) to prohibit RMP listing of liquefied petroleum gas (mostly propane).

Dispelling RMP Myths

by Craig Matthiessen

Many companies out there handling certain hazardous chemicals will soon need to submit a risk management plan (RMP) to EPA. Recently, we've heard quite a few horror stories from a number of companies about the RMP requirements. We've also heard more than a few "myth information" stories. Here are some of the issues and the real story.

Issue: *We already comply with the* [fill in this blank with your favorite federal or state rule, industry code or standard] *so we don't need to do an RMP.*

EPA: It would be extremely unusual for any company handling hazardous materials to not already comply with a variety of rules, codes and standards. This is why the RMP rule builds on these rules, codes and standards; you can use compliance with them to satisfy particular RMP elements! A big advantage of the risk management program is that it can consolidate these rules, codes and standards so all the elements needed for safe operation work together to prevent accidental releases. Managing all these elements under one roof can help reveal gaps in information about hazards or 'layers of protection' and fill these gaps to reduce the risk of an accidental release.

While other rules, codes, and standards may address certain RMP requirements, none captures all of the RMP elements. For example, no other rule, code or standard has you assess the off-site impacts associated with accidental releases and communicate this information to first responders and the community.

Issue: *We have no technical people and can't do the RMP; it will take too long; we need a contractor and it will cost thousands of dollars.*

EPA: If your facility is a large, complicated petrochemical complex you may need some technical support. However, the people responsible for running a process have more knowledge than anyone else; they should be able to step through the RMP requirements and complete the work successfully.

RMP*Comp™ is a computer program that can quickly help you with your worst-case and alternative case scenario assessments. RMP*Submit™ is a computer program that you can use to quickly fill out the RMP form for submission. Actually, you could use RMP*Submit™ first to quickly step through and focus on the elements that need attention. And the best news is that both of these tools are free! (See the Help section below on how to get these tools.)

Issue: *We don't have a process, we just have a couple small storage tanks. We heard that you have to add up the quantity of a listed substance in all the tanks, no matter how small or where they are located.*

EPA: A storage tank is a process. If that tank contains more than the threshold quantity of a listed substance, then it's covered by the RMP rule. For example, if you have a tank holding more than 10,000 pounds of anhydrous ammonia, it's covered by the RMP rule. But if you have a couple of small storage tanks, you add up the quantities in these tanks to see if the amount exceeds the threshold quantity of the substance only if these tanks are interconnected or located close enough together. What's close enough? If an accidental release from one tank can trigger an accidental release in the other, then they're close enough. Remember too, it's not the capacity of the tank that matters but the amount it actually holds. For example, if a storage tank is never filled to greater than 70% of its capacity, use 70% to determine whether you have the threshold quantity, not the full tank capacity.

Issue: *The RMP is only about worst-case; the worst-case means releasing everything from your site; when the public sees the worst-case, we'll be run out of town; and we have to prepare an emergency response plan for the worst-case.*

EPA: The RMP is not just about worst-case. The RMP is about accident prevention, risk reduction, and dialog with first responders and the community about hazards, prevention and emergency preparedness. An emergency response plan does not have to be built around the worst-case. But certain aspects of the worst-case should be considered in the emergency planning process. For example, releases in a certain wind direction and distance may affect the capability of emergency teams to reach the accident site. The worst-case scenario has dominated everyone's attention because of the perception that it is a real prediction or that it will actually happen. It is only a scenario. It communicates the notion that if you did not have a prevention program in place, here's what might happen. Once you've communicated this, you can then show what could really happen (the alternative scenario), what you are doing to make sure that accidents are prevented, and what you will do if something does go wrong.

Several companies have already rolled out their worst-case scenarios, accident prevention programs, and emergency response plans to the public. Most often, the public has come away with a better understanding of what's going on, a greater appreciation of company efforts, and a recognition of why and what they

need to do in an emergency (for example, sheltering-in-place).

Issue: *We have to publish maps pinpointing the location of the worst-case along with the 'death zones' or 'circles of death.' Somebody could use this information to harm the company or the community.*

EPA: There is no requirement in the RMP to publish maps pinpointing the source of the worst-case or any other off-site consequence assessment element. However, maps are extremely useful for communicating with the public about the accidental release scenarios. Many companies have used maps to show escape routes, prevailing wind directions and first responder routes for emergency planning.

The circles generated by the worst-case scenario are not 'death zones' or 'circles of death.' And using these terms only fosters misinformation and distrust. While we certainly are concerned about the effects on people who might be exposed to a toxic cloud or a vapor cloud explosion within the circle, there is no way to accurately predict whether someone would be exposed enough to a toxic cloud or overpressure to cause death. In fact, in an actual emergency, it is highly likely that there would be no deaths because of unpredictable variations in the wind and weather or the amount of chemical actually released, variations in the terrain or structures in the path of the cloud that cause it to disperse, and the ability for people to evacuate or shelter-in-place before the cloud even gets there. This is why it is so important for a company to present and explain the worst-case and other off-site consequence information to the public rather than letting someone else do it who might misrepresent the information.

EPA indicated that a valuable way to quickly share RMP information with states, first responders, and the public is via the Internet. However, EPA agrees that off-site consequence information could be misused if posted on the World Wide Web. Consequently, off-site consequence information (worst-case scenarios, etc.) will not be published on the Internet. While EPA plans to post the rest of the RMP information on the Web, the Agency is working with state and local governments and industry groups to develop ways to share off-site consequence information with the public.

Help is Available

For more help and information, direct your web browser to www.epa.gov/ceppo. Or call the RMP Hotline at 1-800-424-9346, TDD 800-553-7672 for answers to your questions and where and how to get hardcopies of documents. In EPA Region 10, you can also call Lisa McArthur at (206) 553-0383.

Craig Matthiessen is responsible for technical issues related to the Risk Management Program and leads EPA's Chemical Accident Investigation Team.

Updated OCA Guidance for Risk Management Programs Available

EPA issued updated guidance to owners and operators of facilities covered under the Risk Management Program rule. This guidance, "Risk Management Program Guidance for Offsite Consequence Analysis," replaces the "RMP Offsite Consequence Analysis Guidance" published in May 1996, and is available on the EPA website at www.epa.gov/swercepp/acc-pre.html.

The updated guidance provides a simple methodology for conducting offsite consequence analysis, and incorporates several new features not available in the original version.

The guidance provides general reference tables of distances, applicable to most of the regulated toxic substances, and chemical-specific tables of distances for anhydrous ammonia liquefied under pressure, aqueous ammonia, chlorine and sulfur dioxide.

This guidance also provides reference tables of distances for consequences of fires and explosions of flammable substances.

The use of this guidance is optional. Covered facilities that have already performed OCA calculations using the original (May 1996) version of this guidance may continue to use those calculations in forthcoming RMP submissions if desired. Software that performs the calculations described in the guidance, known as RMP*Comp, can also be downloaded from the EPA website.

EPA Issues Alert to Emergency Responders Not to Rely Solely on MSDSs

An alert issued by EPA warns local emergency responders not to rely solely on Material Safety Data Sheets (MSDSs) maintained at facilities during a chemical emergency, but to use additional chemical information sources. Information about the chemicals involved in an accident is critical to a safe response. This information must include: chemical name, toxicity and chemical characteristics, fire and reactivity hazards, emergency response procedures, spill control and protective equipment.

Generally responders rely primarily on MSDSs maintained at the facilities. However, MSDSs alone frequently do not provide local responders sufficient information to effectively and safely respond to an accidental release of a chemical. EPA's alert is designed to increase awareness, so that first responders can take proper precautions. The alert identifies additional sources of chemical information that could help prevent the loss of life.

Local officials should recognize the importance of preplanning with facilities in their communities that store or use hazardous materials. This may help officials recognize specific concerns for a facility and opportunities to prepare effectively for those concerns or reduce risk at the facility. Sufficient and correct information regarding chemicals in an accidental release may make the difference between successful emergency response

and potential disaster for local responders and the community. The alert is available on EPA's web page at www.epa.gov/swercepp/whatnew.html. Copies also are available through the RMP hotline at 1-800-424-9346.
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Questions & Answers

Q: Are bulk storage terminals exempt from filing a Risk Management Plan?

A: There is no general exemption for bulk storage terminals. However, the threshold exemption for "regulated substances in naturally occurring hydrocarbon mixtures prior to entry into a natural gas processing plant or a petroleum refining processing unit" would apply to the regulated substances in the crude oil that meet the other listing criteria for flammable mixtures (i.e. NFPA 4, >1% concentration of listed flammable substance). These substances obviously have undergone processing in a refinery. For non-crude oil substances you need to evaluate on a case-by-case basis whether they trigger the NFPA-4 and >1% criteria. Keep in mind that regulated substances in gasoline, when in distribution of related storage for use as fuel for internal combustion engines, also are exempt from threshold determination.

(CAA Q & A Database, May 1999)

Q: My processes are fenced, but my offices and parking lot for customers are unrestricted. What is considered offsite? What is considered a public receptor?

A: The unrestricted areas would be considered offsite. However, they would not be public receptors because you are responsible for the safety of those who work in or visit your offices. Parking lots generally are not public receptors.

(CAA Q&A Database, March 1999)

Q: What is considered a recreational area?

Recreational areas would include land that is designed, constructed, designated, or used for recreational activities. Examples are national, state, county, or city parks, other outdoor recreational areas such as golf courses or swimming pools and oceans, lakes, and streams when used by the public for fishing, swimming, or boating. Public and private areas that are predictably used for hunting, fishing, bird watching, bike riding, hiking, or camping or other recreational use also would be considered recreational areas. You should consult with land owners, local officials, and the community to reach an agreement on a area's status; your local emergency planning committee (LEPC) can help you with these consultations. EPA recognizes that some judgement is involved in determining whether an area should be considered recreational.

(CAA Q&A Database, March 1999)

Q: What is the relationship between the accident history criteria for Program 1 and the five-year accident history? If my process is eligible for Program 1, do I still need to do a five-year accident history?

A: The five-year accident history is an information collection requirement that provides data on all serious accidents from a covered process involving a regulated substance that exceeds the threshold quantity. In contrast, the Program 1 accident history criteria focus on whether the process in question has the potential to experience a release of the regulated substance that results in harm to the public based on past events. On-site effects, sheltering-in-place, and evacuations must be reported in the five-year accident history, but they are not considered when determining Program 1 eligibility. Therefore, it is possible for a process to be eligible for Program 1 and still have experienced a reportable release in the accident history for the source.

(CAA Q & A Database, April 1999)

Q: A process with more than a threshold quantity of a regulated substance had an accident with off-site consequences three years ago. After the accident, we altered the process to reduce the quantity stored onsite. Now the worst-case release scenario indicates that there are no public receptors within the distance to an endpoint. Can this process qualify for Program 1?

A: No. The process does not qualify for Program 1 until five years have passed since any accident has occurred with consequences that initially disqualified the process for Program 1.

(CAA Q & A Database, April 1999)

Q: If a facility has recently changed ownership, is the new facility owner required to include accidents that occurred prior to the property transfer in the accident history?

A: Yes. Accidents involving covered processes that occurred prior to the transfer of ownership should be included in the five-year accident history. You may want to explain in your Executive Summary that the ownership has changed.

(CAA Q & A Database, April 1999)

Q: If I have a large on-site incident, but no off-site impact, do I have to report that accident in my accident history?

A: It depends whether there were on-site deaths, injuries, or significant property damage. You could have a large accident without any of these consequences (i.e. a large spill that was contained); this type of release would not have to be included in the five-year accident history.

(CAA Q & A Database, April 1999)

Q: I had an accident and several people were treated at the hospital and released; they attributed their symptoms to exposure. I don't believe that this was true. Do I have to report these attributions as off-site impacts on my accident history?

A: Yes. You must report these attributions in your five-year accident history. However, you can use the Executive Summary to indicate that you do not believe that the impacts can be legitimately attributed to the release and explain why you think this is true.

(CAA Q & A Database, April 1999)

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